

Bill No. 31-03
Concerning: Transportation Impact Tax -
Amendments
Revised: 10-27-03 Draft No. 4
Introduced: September 9, 2003
Enacted: October 28, 2003
Executive: _____
Effective: March 1, 2004
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Planning Board

AN ACT to:

- (1) revise the transportation impact tax districts and rates;
- (2) revise certain exemptions from the tax and restrictions on the use of impact tax revenue; and
- (3) generally amend the law governing the transportation impact tax.

By amending

Montgomery County Code

Chapter 52, Taxation

Sections 52-47, 52-49, 52-53, 52-55, 52-57, and 52-58

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 52-47, 52-49, 52-53, 52-55, 52-57, and 52-58, and the heading for Chapter 52, Article VII, are amended as follows:

Article VII. Development Impact Tax for Transportation Improvements

52-47. Definitions.

* * *

Planning policy area means any [of the] geographic [areas described] area designated as a transportation policy area in the annual growth policy.

* * *

Residential means the use of a building as a dwelling unit.

* * *

(5) *High-rise residential* includes any dwelling unit located in a multifamily residential or mixed-use building that is taller than 4 stories, and any 1-bedroom garden apartment.

* * *

52-49. Imposition and applicability of development impact taxes.

* * *

(b) An applicant for a building permit [for development in an impact tax district] must pay a development impact tax in the amount and manner provided in this Article, unless a credit in the full amount of the applicable tax applies under Section 52-55 or an appeal bond is posted under Section 52-56.

(c) The following impact tax districts are established, consisting of the [following] listed Planning Policy Areas as [described] defined in the Annual Growth Policy:

[(1) Germantown: Germantown East, Germantown Town Center, and Germantown West;

- (2) Eastern Montgomery County: Fairland/White Oak and Cloverly;
- (3) Clarksburg: Clarksburg;
- (4) The County District: all planning policy areas and municipalities not located in the Germantown, Eastern Montgomery County, or Clarksburg impact tax districts.]

(1) Metro Station: Friendship Heights, Bethesda CBD, Grosvenor, White Flint, Twinbrook, Rockville Town Center, Shady Grove Metro, Silver Spring CBD, Wheaton CBD, and Glenmont Metro station policy areas;

[(2) Red Line: Bethesda-Chevy Chase, North Bethesda, Derwood, Rockville, Silver Spring/Takoma Park, and Kensington/Wheaton policy areas;]]

[(3) Suburban: Gaithersburg, R&D Village, Germantown East, Germantown Town Center, Germantown West, Clarksburg, [[Damascus,]] Potomac, North Potomac, Montgomery Village, Aspen Hill, Olney, Fairland/White Oak, and Cloverly policy areas;]]

(2) Clarksburg: Clarksburg policy area;

[(4) Rural]] (3) General: Any part of the County, including any municipality, not located in a listed planning policy area.

[(d) Development impact taxes must be accounted for and segregated by the impact tax district from which the taxes are received. The taxes must be restricted in their use to funding improvements listed in Section 52-58.]

Reserved.

* * *

(g) A development impact tax must not be imposed on:

* * *

[[(2) any Productivity Housing unit, as defined in Section 25B-17(j),
which meets the price or rent eligibility standards for a
moderately priced dwelling unit under Chapter 25A;]]

[[(3)] (2) any other [development in which at least 20% of the dwelling
units are] dwelling unit built under a government regulation or
binding agreement that limits for at least 15 years the price or rent
charged for the unit in order to make the unit affordable to
households earning less than [50% of the area median income, or
40% of the units are built under a similar regulation or agreement
that makes them affordable to households earning less than] 60%
of the area median income, adjusted for family size;

[[(4)] (3) * * *

[[(5)] (4) * * *

[[(6)] (5) * * *

(h) The development impact tax does not apply to:

(1) any reconstruction or alteration of an existing building or part of
a building that does not increase the gross floor area of the
building; and

(2) any building that replaces an existing building on the same site or
in the same project (as approved by the Planning Board or the
equivalent body in Rockville or Gaithersburg) to the extent of the
gross floor area of the previous building, if:

(A) construction begins within one year after demolition or
destruction of the previous building was substantially
completed; or

(B) the previous building is demolished or destroyed, after the
replacement building is built, by a date specified in a

phasing plan approved by the Planning Board or
equivalent body.

However, if in either case the development impact tax that would be due on the new, reconstructed, or altered building is greater than the tax that would have been due on the previous building if it were taxed at the same time, the applicant must pay the difference between those amounts.

52-53. Restrictions on use and accounting of development impact tax funds.

- (a) The funds collected by the development impact tax must be used solely [for the purpose of funding the impact tax district transportation program in the impact tax district from which the development impact tax was collected and, in the County district,] to fund County or municipal transportation improvements of the types listed in Section 52-58 located anywhere in the County, except as provided in subsections (c), (h) and (i). In appropriating funds collected by the development impact tax, the Council should, to the extent feasible, designate funds to be used for transportation improvements in the policy area from which the funds were collected or an adjacent policy area. In any fiscal year, development impact tax funds may be spent only to the extent that the annual average amount of funds from other County or city sources spent for transportation improvements listed in Section 52-58 during the 3 previous fiscal years exceeds \$12 million.

* * *

- (c) The Department of Finance must establish separate accounts for [each impact tax district,] the City of Gaithersburg[,] and the City of Rockville, and must maintain records for each account so that

development impact tax funds collected can be segregated by each [of these areas] city.

* * *

(h) Development impact tax funds collected from a project in a Metro Station Policy Area[[, as defined by the Annual Growth Policy,]] [under the Alternative Review Procedure for Metro Station Policy Areas,] must be used for impact transportation improvements located in the same Metro Station Policy Area, or in an adjacent Planning Policy Area.

(i) Development impact tax funds collected from a project in the Clarksburg impact tax district must be used for impact transportation improvements located in or that directly benefit the Clarksburg policy area.

52-55. Credits.

* * *

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-58 if the improvement reduces traffic demand or provides additional transportation capacity. However, the Department must not certify a credit for any improvement to or other action limited to a State road, except a transit or trip reduction program that operates on or relieves traffic on a State road or an improvement to a State road that is included in a memorandum of understanding between the County and either Rockville or Gaithersburg.

* * *

(4) The County must not provide a refund for a credit which is greater than the applicable tax. [[If, however, the amount of the

credit exceeds the amount of the tax due, the property owner may apply the excess credit toward the development impact taxes imposed on other building permits for development with the same ownership. In this Section, a property has the same ownership as another property if the same legal entity owns at least 30% of the equity in both properties.]]

(5) Any credit issued under this subsection on or after March 1, 2004, expires 6 years after the Department certifies the credit.

(c) A property owner may apply to the Director of Permitting Services for a credit for the amount of the development impact tax previously paid if:

- (1) The project has been altered, resulting in a decrease in the amount of the [development impact] tax due; or
- (2) The building permit lapses because of noncommencement of construction.

[A credit granted under this subsection may only be applied to a building permit application submitted by the current property owner for development in the same impact tax district.]

* * *

52-57. [Development impact taxes] Tax rates.

(a) The [development impact] tax rates for each impact tax district are:

156

Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)

<u>[[Land Use]] Building Type</u>	<u>[Germantown] Metro Station</u>	<u>[Eastern Montgomery County] [[Red Line]]</u>	<u>[Clarksburg] [[Suburban]] Clarksburg</u>	<u>[County District] [[Rural]] General</u>
Single-family [detached] <u>detached</u> residential (per dwelling unit)	\$[2,492] [[1500]] <u>2750</u>	[[[]]] [1,727] [[3000]]	\$[2,753] [[4500]] <u>8250</u>	\$[2,100] [[6000]] <u>5500</u>
Single-family attached residential (per dwelling unit)	\$[[2,492]] <u>2250</u>	[[[]]] [1,727]	\$[[2,753]] <u>6750</u>	\$[[2,100]] <u>4500</u>
Multifamily residential (<u>except high- rise</u>) (per dwelling unit)	\$[1,794] [[1000]] <u>1750</u>	[[[]]] [1,243] [[2000]]	\$[1,981] [[3000]] <u>5250</u>	\$[1,100] [[4000]] <u>3500</u>
<u>High-rise residential (per dwelling unit)</u>	<u>1250</u>		<u>3750</u>	<u>2500</u>
Multifamily- senior residential (per dwelling unit)	\$[531] [[500]] <u>500</u>	[[[]]] [368] [[1000]]	\$[573] [[1500]] <u>1500</u>	\$[325] [[2000]] <u>1000</u>
Office (per sq. ft. GFA)	\$[[2]] <u>2.50</u>	[[[]]] [2] [[4]]	\$[2] [[6]] <u>6</u>	\$[1.50] [[8]] <u>5</u>
Industrial (per sq. ft. GFA)	\$[1] [[2]] <u>1.25</u>	[[[]]] [1] [[4]]	\$[1] [[6]] <u>3</u>	\$[1] [[8]] <u>2.50</u>
Bioscience [[facilities]] <u>facility</u> (per sq. ft. GFA)	\$0	[[[]]]	\$0	\$0
Retail (per sq. ft. GFA)	\$[5.08] [[3]] <u>2.25</u>	[[[]]] [3.52] [[6]]	\$[5.61] [[9]] <u>5.40</u>	\$[1.50] [[12]] <u>4.50</u>

[[Places]] <u>Place</u> of worship (per sq. ft. GFA)	\$0.[29] [[20]] <u>15</u>	[[[\$0.]] [20] [[25]]	\$0.[32] [[30]] <u>35</u>	\$0.[20] [[35]] <u>30</u>
Private elementary and secondary [[schools]] <u>school</u> (per sq. ft. GFA)	\$0.[48] [[30]] <u>20</u>	[[[\$0.]] [33] [[35]]	\$0.[53] [[40]] <u>50</u>	\$0.[30] [[45]] <u>40</u>
[[Hospitals]] <u>Hospital</u> (per sq. ft. GFA)	\$0	[[[\$0]]	\$0	\$0
Other nonresidential (per sq. ft. GFA)	\$[5.62] [[2]] <u>1.25</u>	[[[\$]] [3.89] [[4]]	\$[[6]] [.20] <u>3</u>	\$[1] [[8]] <u>2.50</u>

157 [(b) Except as provided in subsection (c), any development located in a
158 Metro Station Policy Area, as defined in the Annual Growth Policy,
159 must pay the tax at 50% of the tax calculated in subsection (a).]

160 [(c)] (b) Any development [located in a Metro Station Policy Area] that
161 receives approval of a preliminary plan of subdivision under [the] any
162 Alternative Review Procedure [for Metro Station Policy Areas] must
163 pay the tax at double the rate listed in subsection (a).

164 (c) Any Productivity Housing unit, as defined in Section 25B-17(j), must
165 pay the tax at 50% of the applicable rate calculated in subsection (a).

166 * * *

167 **52-58. [Impact tax district transportation program] Use of impact tax**
168 **funds.**

169 [The impact tax district transportation program is as follows:]

170 *Delete heading and subsections (a)-(c)*

171 [(d)] [In the County district, projects that may be funded with impact taxes
172 are] Impact tax funds may be used for any:

- (1) new road or widening of an existing road that adds highway or intersection capacity or improves transit service or bicycle commuting, such as bus lanes or bike lanes;
- (2) new or expanded transit center or park-and-ride lot,
- (3) bus added to the Ride-On bus fleet, but not a replacement bus ;
- (4) new bus shelter, but not a replacement bus shelter;
- (5) hiker-biker trail used primarily for transportation;
- (6) bicycle locker that holds at least 8 bicycles;
- (7) sidewalk connector to a major activity center or along an arterial or major highway; or
- (8) in a Metro Station Policy Area or an adjacent policy area, the operating expenses of any transit or trip reduction program.

[(e)] No more than 10% of the funds collected from this tax [in the County District], other than funds collected in a Metro Station Policy Area, may be spent for the items listed in paragraphs (4) - (8) [of subsection (d)].

Sec. 2. Effective Date.

(a) This Act takes effect on March 1, 2004. The development impact tax imposed under Article VII of Chapter 52, as amended by Section 1 of this Act, applies to any building for which an application for a building permit is filed on or after that date.

(b) The development impact tax rates imposed under Section 52-57, as amended by Section 1 of this Act, do not apply to any building located in a Metro Station Policy Area or Town Center Policy Area if:

(1) a site plan which includes that building was approved by vote of the County Planning Board, or the equivalent body in any municipality, before May 1, 2003; and

(2) (A) a building permit is issued for that building before

200 September 1, 2006; or
 201 (B) if the building is part of a mixed use project, a building
 202 permit is issued for any building or structure in that project
 203 before March 1, 2005.
 204 Any building to which this subsection applies is liable for the tax at the
 205 rates in effect on February 29, 2004.

206 *Approved:*

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Michael L. Subin, President, County Council	Date
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208 *Approved:*

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Douglas M. Duncan, County Executive	Date
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210 *This is a correct copy of Council action.*

211

Mary A. Edgar, CMC, Clerk of the Council	Date
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